

**IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF OKLAHOMA**

In re:)	
)	
FORREST, SHANNON)	
SS #XXX-XX-6040)	
)	Case No. 13-12624
Debtor.)	(Chapter 13)

SHANNON FORREST,)	
)	
Plaintiff,)	
)	
vs.)	Adversary No. 13-01073
)	
OKLAHOMA STATE REGENTS)	
FOR HIGHER EDUCATION,)	
)	
Defendant.)	

**UNOPPOSED APPLICATION OF EDUCATIONAL CREDIT
MANAGEMENT CORPORATION TO SUBSTITUTE AS PARTY
DEFENDANT AND AMEND THE STYLE OF THIS ADVERSARY PROCEEDING**

COMES NOW the proposed Substituted Defendant, Educational Credit Management Corporation, a non-profit corporation ("*ECMC*"), by and through its counsel, who makes application to the Court for an *ex parte* Order joining and substituting ECMC as party defendant in this adversary proceeding for the named Defendant, Oklahoma State Regents for Higher Education ("*Regents*"), pursuant to *Rules 7019 and 7021, F.R. Bankr. P.*, and *Rules 19 and 21, F.R. Civ. P., Tit. 28, U.S.C.*, and to amend the style of this adversary proceeding accordingly. In support of its motion, ECMC states as follows:

1. The undersigned counsel consulted with counsel for Plaintiff who advised he interposes no objection to the relief sought hereby.

2. ECMC has a contractual obligation to defend this adversary proceeding pertaining to the education loans in question; the holder of the promissory note(s) guaranteed by ECMC has made a claim under ECMC's obligation and ECMC has accepted the same. ECMC has paid or will shortly pay under the terms of its obligation, and the affected promissory note(s) will be endorsed and assigned to ECMC.¹

3. ECMC is engaged in the claims administration process mandated its agreement with the Regents and by the Federal Family Educational Loan Program, established by the **Higher Education Act of 1965**, *Pub. L. No. 89-329, Nov. 8, 1965, Tit. IV, 79 Stat. 1219 (20 U.S.C. §§ 1071-1087-4)*, and administered by the Department of Education of the United States, whose regulations concerning same are found at *34 C.F.R. §§ 682.100 et seq.*, and is now, or shortly will become, the owner and holder of the underlying promissory note(s).

4. Accordingly, ECMC will shortly become the true defending party in interest herein, and the named Defendant, the Regents, should be dismissed herefrom with ECMC substituted in its stead.

WHEREFORE, ECMC respectfully makes application to the Court for its *ex parte* Order (a) allowing ECMC to be substituted as the proper defending party in this adversary proceeding as provided in *Rules 19 and 21, F.R. Civ. P., Tit. 28, U.S.C.*, as made applicable by *Rule 7019, 7021, F.R. Bankr. P.* and dismissing the Regents herefrom without prejudice; (b) amending the title of this

¹ Zion First National Bank Education Loan Trust Nelnet Trust ("*Zion*") is the current lender of the student loans sought to be discharged by Plaintiff's Complaint herein. Nelnet Loan Services, Inc., is the loan servicing agency servicing same and is not an owner or holder thereof. The guaranty agency related to these loans is Oklahoma College Assistance Program, now known as the Oklahoma State Regents for Higher Education (the "*Regents*"). Because federal regulations prohibit lenders from holding interests in student loans that are subject to bankruptcy adversary proceedings, Zion filed a claim under the loans' guaranty with the Regents. By agreement, the Regents assign to ECMC for defense its loans that are subject to an adversary proceeding. Thus,

proceeding accordingly; (c) providing this proceeding be continued without prejudice to any matter already had herein; and (d) providing such other and further relief as the Court may deem just and equitable in the premises.

RESPECTFULLY SUBMITTED this ____ day of September, 2013.

s/ Mac D. Finlayson

MAC D. FINLAYSON, OBA #2921

ELLER & DETRICH, P.C.

2727 East 21st Street, Ste. 200

Tulsa, OK 74114-3533

Telephone: 918.747.8900

Facsimile: 918.392.9452

E-mail: mfinlayson@ellerdetrich.com

**ATTORNEY FOR SUBSTITUED DEFENDANT,
EDUCATIONAL CREDIT MANAGEMENT
CORPORATION, a non-profit corporation
("ECMC")**

CERTIFICATE OF SERVICE

The undersigned certifies on the date signified by the Notice of Electronic Filing accompanying this pleading, and only to the extent the same reflects the following person will not receive electronic notification hereof, he served the following person by causing a true and correct copy of the above and foregoing to be placed in the United States Mail, first class mail with postage duly prepaid thereon, as follows:

James S. Matthews, Jr., Esq.
3524 Northwest 50th Street
Oklahoma City, OK 73112

Attorney for Plaintiff

s/ Mac D. Finlayson

Mac D. Finlayson, OBA #2921

the Regents will shortly transfer and assign to ECMC all right, title and interest in those certain student loans owing to the Regents.